

Remarks

The Office Action mailed January 18, 2007 has been carefully considered. In that Action, the Office rejected Claims 1 and 9 under 35 U.S.C. §112. The Office also rejected Claims 1-7 and 9-15 under 35 U.S.C. §103 as being rendered obvious by U.S. Patent No. 5,768,758 (“Deignan”), U.S. Patent No. 4,638,648 (“Gajjar”), U.S. Patent No. 4,893,482 (“Frenzel”), and Spencer, *Knitting Technology* (“Spencer”). As such, Claims 1-7; and 9-15 remain in the case with none of the claims being allowed.

35 U.S.C. §112

Claims 1 and 9 were rejected for a lack of written description for their recitation of “formed at substantially the same time on the same knitted machine.” This recitation has been removed from both claims. Claim 1 has been amended to recite that the band of the mattress closing tape is formed by integral knitting. Claim 9 has been amended to recite that the band of the mattress closing tape of the mattress is formed by integral knitting. Support for these amendments may be found, *inter alia*, in the previous version of the claims. Applicant believes these amendments address the Office’s concerns.

35 U.S.C. §103

Claims 1-7 and 9-15 were rejected under 35 U.S.C. §103 as being rendered obvious by Deignan, in view of Gajjar, Frenzel, and Spencer.

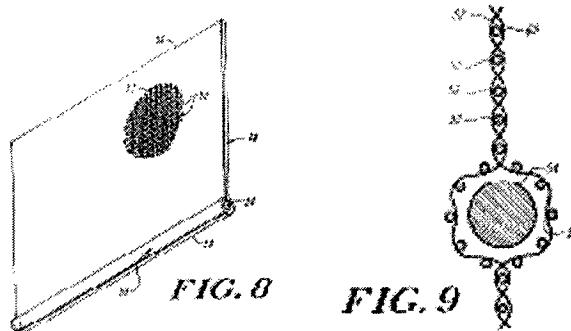
Deignan discloses an apparatus for attaching upholstery to seats. Deignan’s apparatus includes the piece of upholstery and a narrow tape or web with a cord “incorporated into the tape” (col. 1, line 65- col. 2, line 3). To secure the upholstery to seats or chairs, the exposed cord is attached to hooks located on the seat or chair.

Applicant respectfully believes that the Office is impermissibly modifying Deignan in its rejection. The Office states that if “[Deignan’s] cord were not utilized, the filling yarns would cross the entire width of the fabric and generate a pattern and layer effect” (page 6 of previous Office Action).

It is well settled that if a proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to

make the proposed modification. See MPEP 2143.01 citing *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). It is Deignan's cord that secures Deignan's upholstery to the seat. Removing Deignan's cord would completely destroy Deignan's purpose of securing upholstery to seats. For at least this reason, the Office has failed to make a *prima facie* case of obviousness, the Office's modification is improper, and all of the currently pending claims are patentable over the cited combination.

Applicant also respectfully believes that there are other limitations in the claims that cannot be derived from any modification or combination with Deignan. For example, Claim 1 recites that the mattress closing tape is *substantially flat in cross-section*. Deignan's tape with a cord "incorporated into the tape" is not *substantially flat in cross-section*. As shown, *inter alia*, in Deignan's Figures 8 and 9 (see below), Deignan's cord prevents a substantially flat cross-section. For at least this reason, Claim 1 and its dependents are patentable over the cited reference.



Any attempt to modify Deignan to remove Deignan's cord would – again - destroy Deignan's purpose, which is impermissible based on MPEP 2143.01.

Further, Claim 1 recites that the mattress closing tape is *sufficiently flexible to be adapted to closely conform to an edge bead of a mattress*. Again, Deignan's cord prevents close conformation to an edge bead of a mattress. Any attempt to modify Deignan to remove Deignan's cord would destroy Deignan's purpose, which is impermissible base on MPEP 2143.01.

Claim 9 recites that *the mattress closing tape is covering and closely conforming to the edge bead of the mattress*. Respectfully, applicant fails to see how this limitation is met by the

Office's combination. First, none of the references disclose *the edge bead* of a mattress. Deignan's cord is not the edge bead of a mattress nor does it perform the same function of the edge bead of a mattress. For at least this reason, Claim 9 and its dependents are patentable over the Office's combination.

Second, the Office is currently stating that if Deignan's cord were removed, the current limitations of applicant's Claim 9 would be met. If the Office is modifying Deignan by removing Deignan's cord, applicant respectfully requests that the Office clearly point to what in the references is providing the recited *edge bead of the mattress*. Based, *inter alia*, on the Office's arguments, applicant respectfully believes that Claim 9 and its dependents are patentable over the cited combination.

Conclusion

By this amendment, the applicant has placed the case in condition for allowance and such action is respectfully requested. If, however, any issue remains unresolved, applicant's attorney would welcome the opportunity for a telephone interview to expedite allowance and issue.

Respectfully submitted,



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